

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

TERRAFORM LABS, PTE. LTD. and DO  
HYEONG KWON,

Defendants.

Civil Action No. 1:23-cv-01346-JSR

Hon. Jed S. Rakoff

**STIPULATION AND ORDER REGARDING  
DEPOSITION OF THIRD-PARTY MICHAEL ARRINGTON**

WHEREAS, on September 14, 2023, Defendants served a subpoena pursuant to Fed. R. Civ. P. 45 on third-party Michael Arrington (“Mr. Arrington”) requiring Mr. Arrington to appear for a deposition on October 9, 2023 (the “Subpoena”); and

WHEREAS, Mr. Arrington’s counsel has advised Defendants’ counsel that Mr. Arrington is unable to appear for a deposition at that time, or at any time before the discovery cut-off date in this case (October 13, 2023), because he is the full-time caregiver to an ailing relative;

IT IS HEREBY STIPULATED AND AGREED by the parties and Mr. Arrington, through their undersigned counsel, that:

1. The SEC shall not submit a declaration, affidavit, or other statement by Mr. Arrington in connection with a summary judgment motion filed by any party in this case.

2. If the SEC wishes to call Mr. Arrington as a trial witness, (a) the SEC shall notify Defendants’ counsel and Mr. Arrington’s counsel at least 30 days before the trial date set by the

Court, or (b) if the Court schedules trial to begin fewer than 30 days after the Court sets the trial date, the SEC shall notify Defendants' counsel and Mr. Arrington's counsel within three business days after the trial date is set.

3. The SEC shall not object to Defendants' taking Mr. Arrington's deposition before trial if Mr. Arrington's personal situation permits him to testify at trial.

4. If Mr. Arrington agrees or is ordered to appear as a trial witness at the SEC's request, he will also agree to appear for a deposition by Defendants at least 14 days before the trial date set by the Court. Mr. Arrington agrees that his undersigned counsel shall accept service on Mr. Arrington's behalf by email of a new subpoena for such a deposition.

5. Defendants hereby withdraw the Subpoena, subject to their right to issue a new subpoena for Mr. Arrington's deposition in accordance with the provisions above.

6. If Defendants serve a new subpoena for Mr. Arrington's deposition in accordance with the provisions above, the deposition shall take place notwithstanding that it will occur after the discovery-cut off deadline previously set by the Court for October 13, 2023.

7. Nothing in this Stipulation and Order shall prevent the SEC from using documents produced by Mr. Arrington in this case in accordance with the applicable rules or from submitting a business records certification in connection with any summary judgment motion filed in this case.

Dated: October 3, 2023

/s/ Douglas W. Henkin

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*Attorney for Third-Party Michael Arrington*

SO ORDERED:

  
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Honorable Jed S. Rakoff  
United States District Judge  
October 3, 2023